

THE NATIONAL COUNCIL ON EDUCATION ACT

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SCHEDULE

## THE NATIONAL COUNCIL ON EDUCATION ACT

[9th March, 1993.]

Acts  
7 of 1993,  
36 of 2017  
Sch.

1. This Act may be cited as the National Council on Education Act. Short title.

2. In this Act—

Interpreta-  
tion.

“Board of Management” has the same meaning as in the Education Act;

“chairman” means the chairman of the Council;

“Council” means the National Council on Education established under section 3;

“functions” includes powers and duties;

“Fund” means the National Education Trust Fund established under section 12;

“public educational institution” has the same meaning as in the Education Act.

*National Council on Education*

3.—(1) There shall be established a body to be called the National Council on Education which shall be a body corporate to which section 28 of the Interpretation Act shall apply. Establish-  
ment of  
National  
Council on  
Educ

(2) The provisions of the Schedule shall have effect as to the constitution of the Council and otherwise in relation thereto. Schedule.

4.—(1) The functions of the Council shall be to—

Functions  
of Council.

(a) advise the Minister on policy matters relating to education in Jamaica;

- (b) in respect of every public educational institution owned by the Government, nominate for the purpose of appointment as members of the Board of Management of such institution, such number of persons as may be prescribed;
  - (c) assist in the preparation of plans and programmes for developing and maintaining an effective and efficient educational system;
  - (d) monitor and evaluate the implementation of the plans and programmes referred to in paragraph (c) and, in respect thereof, make to the Minister such recommendations as it thinks fit;
  - (e) manage the Fund in conformity with this Act;
  - (f) stimulate the development of education in Jamaica, whether by means of training programmes, competitions, exhibitions or otherwise, as the Council thinks appropriate; and
  - (g) perform such other functions relating to education as may be assigned to it by the Minister pursuant to this Act or any other enactment.
- (2) In the performance of its functions under subsection (1) the Council may—
- (a) design and implement training programmes for the benefit of members of Boards of Management;
  - (b) undertake research in connection with its functions and publish or otherwise disseminate the findings of such research;
  - (c) in recognition of service in the field of education in Jamaica, make such awards as it thinks fit to persons selected by the Council in accordance with criteria approved by the Minister;

- (d) do anything or enter into any transaction which, in the opinion of the Council, is necessary to ensure the proper performance of its functions.

5. The Minister, may after consultation with the chairman, give to the Council such directions of a general character as to the policy to be followed by the Council in the performance of its functions as appear to the Minister to be necessary in the public interest, and the Council shall give effect thereto.

Policy  
directions.

6.—(1) The Council shall appoint and employ, at such remuneration and on such terms and conditions as the Council may determine, an Executive Director, a Secretary and such other officers and employees as the Council deems necessary for the proper carrying out of the provisions of this Act:

Appoint-  
ment of  
officers and  
other  
employees.

Provided that—

- (a) no salary in excess of the prescribed rate shall be assigned to any post without the prior approval of the Minister; and
- (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned without the prior approval of the Minister.

(2) For the purposes of subsection (1) the “prescribed rate” means a rate of one hundred and fifty thousand dollars per annum or such higher rate as the Minister may, by order, prescribe.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of the Government to any office with the Council, and any public officer so appointed shall, while so employed, in relation to any pension, gratuity or

other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Government.

Pensions,  
gratuities  
and other  
retiring  
benefits.

7. It shall be lawful for the Council, with the approval of the Minister—

(a) to enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; and

(b) to make regulations,

for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, relating to employees of the Council and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the legal personal representatives of such employees.

Funds and  
resources  
of the  
Council.

8.—(1) The funds and resources of the Council shall consist of—

(a) sums which may from time to time be placed at the disposal of the Council by Parliament;

(b) all other moneys and other property which may in any manner become payable to or vested in the Council in respect of any matter incidental to its functions.

(2) The expenses of the Council, including the remuneration of members and employees, shall be paid out of the funds of the Council.

Power to  
invest  
moneys.

9. All moneys of the Council not immediately required to be expended for the purpose of meeting any of the obligations or discharging any of the functions of the Council may be invested in such securities as may be approved

either generally or specifically by the Minister and the Council may, with the approval of the Minister, sell all or any of such securities.

10.—(1) The Council shall keep proper accounts and other records in relation to its functions and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming to established accounting principles.

Accounts  
and audit.

(2) The accounts of the Council shall be audited annually by the Auditor-General.

11.—(1) The Council shall, within six months after the end of each financial year or within such longer period as the Minister may in special circumstances approve, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Council during the preceding financial year.

Annual  
reports and  
estimates.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be tabled in the House of Representatives and the Senate.

(3) The Council shall in each financial year, before a date specified by the Minister, submit to the Minister for his approval estimates of income and expenditure for the ensuing financial year.

#### *National Education Trust Fund*

12.—(1) There is hereby established for the purposes of this Act, a fund to be called the National Education Trust Fund which shall, subject to the provisions of this section, be under the control and management of the Council.

National  
Education  
Trust Fund.

(2) There shall be paid into the Fund—

- (a) such percentage of moneys collected by way of education tax as the Minister responsible for finance, after consultation with the Minister, may, by order subject to affirmative resolution of the House of Representatives, prescribe;
- (b) all income derived from the assets of the Fund;
- (c) such other sums as may from time to time be received and accepted by the Minister or the Council on behalf of the Fund.

(3) The moneys of the Fund, except in so far as they may be invested or utilized pursuant to this Act, shall be held by the Bank of Jamaica or any bank approved by the Minister in which public funds may be lawfully be deposited.

(4) Any moneys and investments forming part of the Fund may from time to time be invested or realized, as the case may be, in accordance with the directions of the Minister.

(5) The Minister may from time to time after consultation with the chairman issue written directions to the Council that such sum as shall be specified in the directions shall be drawn from the Fund and, subject to such conditions, if any, as shall be specified in the directions, used for such purposes related to the functions of the Council as shall be so specified.

(6) Accounts of the Fund shall be prepared in such form and manner and at such times as the Minister may direct and shall be audited by the Auditor-General, who shall report thereon to the House of Representatives.

(7) The Minister shall, not later than 31st March in each year, cause a report on the operations of the Fund in respect of the last preceding year to be tabled in the House of Representatives.

*General*

**13.—**(1) The Council shall be exempt from income tax and property tax— Exemption from taxes and duties.

(2) The Council shall be exempt from liability to stamp duty in respect of any instrument executed by it or on its behalf.

(3) Any transfer by the Council of any property belonging to it or of any right or interest created in, over or otherwise with respect to, any such property shall be exempt from transfer tax.

(4) No customs duty or other similar impost (other than general consumption tax) shall be payable upon any article imported into Jamaica or taken out of bond in Jamaica by the Council and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Council in the performance of its functions. 36/2017 Sch.

**14.** The Council may, with the approval of the Minister, make regulations generally for the better carrying out of the provisions of this Act. Regulations.

*The National Council on Education*

Constitu-  
tion of  
Council.

1.—(1) The Council shall consist of not less than twenty-one nor more than twenty-five members.

(2) The Permanent Secretary of the Ministry of Education shall be an *ex officio* member of the Council.

(3) The other members of the Council shall be two persons appointed by the Governor-General in his own discretion and the following persons appointed by the Governor-General, acting on the advice of the Prime Minister after consultation with the Leader of the Opposition—

- (a) one representative of each of the following bodies—
  - (i) the political party forming the Government;
  - (ii) the political party forming the Opposition;
  - (iii) the University of the West Indies;
  - (iv) the University Council of Jamaica;
- (b) two persons from each of the following categories, being persons nominated by organizations representing such categories—
  - (i) religious bodies;
  - (ii) the business sector;
  - (iii) teachers;
- (c) one person from each of the following categories, being persons nominated by organizations representing such categories—
  - (i) parents of children of school age;
  - (ii) students;
  - (iii) the media;
  - (iv) professional bodies;
  - (v) the agricultural sector;
  - (vi) trade unions;
- (d) not more than six other persons appearing to the Governor-General to be persons knowledgeable and experienced in matters relating to education, sport or culture.

Chairman and  
deputy  
chairman.

2.—(1) The Governor-General, acting on the advice of the Prime Minister after consultation with the Leader of the Opposition, shall appoint a chairman and a deputy chairman from amongst the members of the Council.

(2) In the case of absence or inability to act of the chairman, the deputy chairman shall perform the functions of chairman.

(3) In the case of the absence or inability to act of both the chairman and the deputy chairman, the Governor-General may appoint any other member of the Council to perform the functions of the chairman, or, as the case may be, the deputy chairman during such absence or inability.

3. The Governor-General, on the application of any member of the Council, may grant to such member leave of absence for any period not exceeding six months and may appoint some other person to act as a member during the period of leave of absence so granted.

Grant of  
leave of  
absence.

4.—(1) Subject to the provisions of this Schedule, a member of the Council shall hold office for a period not exceeding three years.

Tenure of  
office.

(2) Every member of the Council shall be eligible for reappointment but no member shall be appointed for more than six consecutive years.

(3) If any vacancy occurs in the membership of the Council such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

5.—(1) A member of the Council, other than the chairman, may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the chairman, and from the date of receipt by the Governor-General of such instrument, the member shall cease to be a member of the Council.

Resignation  
Registration  
of members.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Governor-General and his resignation shall take effect from the date of the receipt of the instrument by the Governor-General.

6. The names of all members of the Council as first constituted and every change in the membership shall be published in the *Gazette*.

Gazetting  
of appoint-  
ments.

7.—(1) The seal of the Council shall be authenticated by the signature of the chairman or any other member of the Council authorized to act in that behalf and shall be judicially and officially noticed.

Seal.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Council may be signified under the hand of the chairman or any member or officer of the Council authorized to act in that behalf.

8.—(1) The Council shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Council may determine.

Procedure  
and meet-  
ings.

(2) The chairman may at any time call a special meeting of the Council and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any three members of the Council.

(3) The chairman or, in the case of the inability to act of the chairman, the deputy chairman shall preside at the meetings of the Council and in the absence of both the chairman and the deputy chairman from any meeting, the members of the Council present shall elect one of their number to preside at that meeting and when so presiding the chairman, the deputy chairman or the member elected as aforesaid, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Council shall be nine.

(5) Subject to the provisions of this Schedule, the Council may regulate its own proceedings.

(6) The validity of any proceedings of the Council shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Remunera-  
tion of  
members.

9. There shall be paid to the chairman, the deputy chairman, and other members of the Council, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Appoint-  
ment of  
committees.

10.—(1) The Council may, with the approval of the Minister, appoint committees for special purposes connected with the functions of the Council and which, in the opinion of the Council, would be better regulated and managed by means of committees.

(2) The number of members of a committee appointed under sub-paragraph (1), the terms of appointment of such members, the quorum of the committee and the area within which the committee is to exercise authority shall be determined by the Council.

(3) A committee appointed pursuant to this paragraph may include persons who are not members of the Council, but at least one of the members of any such committee shall be a member of the Council.

(4) The provisions of paragraph 12 shall apply to a member of a committee who is not a member of the Council in like manner as they apply to a member of the Council.

(5) The validity of the proceedings of a committee appointed pursuant to this paragraph shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Power to  
delegate.

11.—(1) Subject to the provisions of this Schedule, the Council may, by instrument in writing, delegate to any member, committee, officer or employee of the Council any function exercisable by the Council under

this Act, other than this power of delegation and the power under section 14 to make regulations.

(2) A delegation under this paragraph—

(a) may be made subject to such conditions, qualifications and exceptions as may be specified in the instrument; and

(b) is revocable by the Council,  
and such delegation shall not prevent the exercise by the Council of the function delegated.

12.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Council in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act. Protection of members.

(2) Where any member of the Council is exempt from liability by reason only of the provisions of this paragraph, the Council shall be liable to the extent that it would be if the said member were an employee or agent of the Council.

13. A member of the Council who is directly or indirectly interested in any matter which is being dealt with by the Council— Disclosure of interest.

(a) shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council; and

(b) shall not be present during the deliberation of the Council on the matter or take part in the decision of the Council with respect thereto.

14. The office of the chairman, deputy chairman, or members of the Council shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. Office of member not public office.